IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2149 OF 2005

Prabhu Mandal. .. .. Petitioner
v/s.
The State of Mah. & anr. .. Respondents

Ms.Shobhana Gopal for petitioner.
Mr.M.D.Naik, AGP for res.Nos.1 & 2.
Mr.Rakesh Kumar for Vijay Kumar Bhallah.

CORAM : H.L. GOKHALE &
ABHAY S. OKA, JJ.

DATED : 30th January 2006

P.C. :

1. Heard M.Shobhana Gopal in support of this Petition. Mr.Naik, AGP appears for respondent Nos.1 and 2. Mr.Rakesh Kumar is present for Diamond Builders. He is instructed by one Mr.Vijay Kumar Bhallah, proprietor of this Firm.

2. The Petition is filed to execute the recovery certificate issued by the Labour Commissioner for recovering the dues of the petitioner from the above-referred Vijay Kumar Bhallah, Diamond builder. The petitioner had filed an application under Section 33(c) of the Industrial Disputes Act for claiming his wages. That application was allowed on 29th December 2003 and an amount of Rs.1,86,614/- was held to be due to the petitioner on various counts such as unpaid

bonus, amounts due for the weekly off wages, unpaid salary etc. This order was passed in the circumstances which indicate that the notice was sent to this employer who refused to accept it. He had not filed any written statement and hence, this order came to be passed. Subsequently the recovery certificate has been issued and more than a year has gone, the amount has not been recovered and hence, this Petition has been filed.

3. The Naib Tahsildar has filed an affidavit stating that the necessary steps are being taken. Mr.Rakesh Kumar appearing for the employer points out that the employer has filed an application for setting aside the order passed by the Labour Court. He fairly states that the application was made for stay of the order but the learned Judge has declined to grant ex-parte stay on 10th June 2005. However, the application for setting aside is pending in that Court.

4. Mr.Rakesh Kumar states that according to the employer no such amounts are due to the workmen. However, on a query from the Court and on the instructions of Mr.Vijay Kumar Bhallah, who is present in Court, he states that the employer will deposit a sum of Rs.20,000/- in the Labour

Court at Bandra, Mumbai, within two weeks. On depositing that amount, the learned Judge will proceed to decide the application filed by the employer for setting aside the order which the employer considers as an ex-parte order. In the meanwhile, the execution and enforcement of the recovery certificate will stand stayed. Restoration application will be decided within three months. In case the application is rejected the execution will proceed further and Rs.20,000/- will be released to the employee.

5. Petition disposed of with the above order.

(H.L. GOKHALE, J.)

(ABHAY S. OKA, J.)